

Submitted April 27, 2005
Approved As written
Date April 27, 2005

MINUTES OF THE ROCKVILLE PLANNING COMMISSION
MEETING NO. 4-05
Wednesday, February 23, 2005

The City of Rockville Planning Commission convened in regular session in the City Hall Council Chamber Room at 7:00 p.m., Wednesday, February 23, 2005.

PRESENT
John Britton, Chair
Frank Hilton Gerald Holtz
Steve Johnson Brigitta Mullican
Kate Ostell

Absent: Robin Wiener

Present: Scott Parker, Acting Chief of Planning
Sondra Block, Assistant City Attorney
Castor Chasten, Planner III
Margaret Hall, Planner II
Edwin Woo, Department of Public Works

RECOMMENDATION TO THE BOARD OF APPEALS

Special Exception SPX2004-00350, National Lutheran Home

The applicant is proposing to construct five triplex living units on the subject property located at 9701 Veirs Drive.

Mr. Chasten presented the staff report. Mr. Chasten described the property, which is bounded to the north by the Lakewood Country Club and single-family detached residential dwellings to the east, south, and northwest. The National Lutheran Home has been in operation at its current location since the late 1970s. The property is 27 acres in size. The new independent living units will be located at the extreme northeastern end of the Lutheran Home tract area recently acquired by the Home. The inclusion of the 3.27 acres on which the new units will be built will total approximately 30 acres in size. The Home has existed to date with little or no disruption to the surrounding community. Each of the new units will be provided with two parking spaces on the site located a short distance from the new living units. While vehicular access to the new units is provided via Wescott Place, pedestrian access between the new living units and existing units will be made possible by a system of interconnecting walkways. The new units will be maintained like the existing independent living units insuring that the overall physical

appearance of the dwellings and property remain uniform with landscaping, lawn care of open space, refuse collection facilities, etc. The applicant is also working with staff to provide the required stormwater management facilities needed to accommodate added stormwater runoff, which would be created by the newly impervious area by this development. The applicants are also working with the owners of the neighboring country club to ensure that ample vegetative buffers are maintained between the subject property and the neighboring country club property to the north.

Commissioner Ostell disclosed that she recently had a tour of the nursing home portion of the National Lutheran Home for a family member. She said that tour would not affect her evaluation of the application.

Commissioner Holtz stated that as he looks at the site, it does have a common border with two single-family lots. Mr. Chasten stated that those two lots are separated from the subject property by natural vegetation. The landscape plan includes the retention of existing trees in that area, to the extent possible.

In response to Commissioner Mullican, Mr. Chasten stated that the property acquired for the five units was not from the country club, but a gift from the Virginia Simmons Estates.

Commissioner Ostell addressed concerns regarding the trees and landscaping on the site. She said she is concerned that many of the trees would be removed. Mr. Chasten stated that the Commission has the opportunity to recommend to the Board of Appeals to add more trees to the site.

In response to Commissioner Ostell, Mr. Chasten stated that there have been no objections from the country club or neighbors regarding the application. Mr. Chasten stated that staff has notified the community and the only contact staff has received a letter from a neighboring property owner, Mr. David Palmer of 13330 Foxden Drive, and the owners of Lakewood Country Club and their attorneys who are concerned about the sewer access in that this proposal not block future properties from accessing the sewer and water lines for those homes that are still on well and septic. The applicants have been working with staff to ensure that adequate sewer and water access will still be maintained. Mr. Chasten stated that staff has had the City's Public Works Department review the sewer and water lines and staff has included a condition that the Home would be responsible for a sewer extension with further analysis at the use permit stage.

Harry Lerch, Attorney with Lerch, Early & Brewer, presented the applicant's request. Mr. Lerch introduced the team members representing the applicant. Mr. Lerch pointed out that the conditions of approval are acceptable to the applicant. He said that they have also worked with Lakewood Country Club and the requests in their letter are also acceptable. Mr. Lerch noted that they are also working with Mr. Palmer and the City through the use permit process.

Kristina Hughes, Executive Director of The National Lutheran Home, stated that she started as the new Executive Director on January 1, 2005 and has been working for the Home for ten and a half years. Ms. Hughes presented the history of the Home and its services. She explained the operation of the facility. The facility is a facility for the elderly and physically handicapped. Currently, there are 300 beds, and all residents are 65 and older. There are also independent living units, which currently total 129 units and they are spread across the campus, east and west of the main facility. They residents there are also 65 and over. Ms. Hughes stated that all of the independent living units are in a triplex arrangement facing onto a courtyard. She stated that each villa containing three living units for elderly persons who are able to live in an independent setting. The new residential triplex dwelling units are to be constructed on property recently acquired by the Home, located at the extreme northeast corners of the subject property. There are one, two bedroom units.

Ms. Hughes explained the support services for the residents. There will be no change in the current operations of the National Lutheran Home or the current special exception. No additional staff will be required to service the new units.

Ms. Hughes discussed the Home's outreach to the community. She stated that on July 14, 2004, the National Lutheran Home conducted a neighborhood meeting to which all residents of the Monterra community were invited to inform interested parties of its plans for the construction of these new units. Prior to the meeting, most of the neighbors advised the Home of their satisfaction with the plans and said they did not need to attend. At the meeting, one neighbors suggested that because of tree removal, there did not appear to be sufficient screening of the southeastern most building. Ms. Hughes noted that the property is bounded to the north by the Lakewood Country Club.

Commissioner Ostell asked Ms. Hughes how the Home would feel if Condition 3 in the staff report would include encouraging the Home to keep as many mature trees as possible on the site. Ms. Hughes stated that they have tried to do that and they have spoken with the country club because they have expressed their concerns regarding the screening of their greens. Ms. Hughes stated that they would agree to that inclusion.

Walter Petzold, Civil Engineer and Land Planner discussed the landscaping and trees to buffer the neighboring properties. He also talked about topography of the site, forest conservation and planting trees offsite.

In response to Commissioner Mullican, Mr. Petzold stated that this last section of land was purchased from the Simmons family.

The following citizens testified:

1. Jeff Zions, 5 Monterra Court, stated that, universally, people are very happy with the Lutheran Home as neighbors. . He noted that the only time there is any traffic coming from the Home is twice a year when they have a bazaar.
2. Jeff Webber, President of Lakewood Country Club, testified that the Lutheran Home did meet with them on several occasions and they do support the project. They have been good neighbors to the country club over the years. The property does abut the golf course and they do have several concerns that are addressed if the project is approved. One is the reforestation – as part of the golf course renovation, they were required to undergo major reforestation of the property and there is a 30-foot reforestation buffer between the golf course and the Lutheran Home fence. Therefore, the country club would expect that the Lutheran Home would have the same reforestation on their side of the fence. Their property abuts the country club's sixteenth green, which currently has nothing but trees behind it and they are very concerned about how many trees might be taken down because of this project. The second issue is sediment control. Since the subject property is raised up above the sixteenth green, they want to make sure that the Lutheran Home takes proper sediment control into consideration. Mr. Webber stated that the Lutheran Home has agreed to the country club's concerns. He pointed out that the only other two issues is that if the Lutheran Home ever decides to build a fence on the property; they would like to have some input on the materials and the height of the fence. The last issue is that they would like the Lutheran Home to alert any potential homeowners to the fact that there could be golf balls coming into their yards.

The Board further discussed concerns regarding sediment control.

Commissioner Britton asked the applicant's representatives if they would agree to a condition that would require a consultation with Lakewood Country Club for the design and placement of a fence if the Lutheran Home proposes to build a fence and to establish a 30-foot tree buffer area.

The Commission, staff, the applicant's representatives and Mr. Webber discussed the 30-foot buffer areas. Mr. Parker pointed out that a use permit would be coming forward after this application and, as part of the use permit, there will be a landscape plan that must be approved as part of the use permit. The landscape plan would include the concerns of the country club.

Mr. Petzold stated that stormwater does runoff, unencumbered, from this entire property onto the golf course. After this project, the stormwater issue would be an improvement for the golf course.

3. Stewart Grump, member of the Senior Citizens Commission stated that he is representing the Commission. He noted that they sent a letter to staff in October 2005 and it is signed by the Chairman of the Senior Citizens Commission. Mr. Grump stated that they are very much in favor of this type of project and it will be a big addition to the

housing for seniors. There are many people at the Senior Center who are looking for this kind of housing and they want to stay in Rockville.

Commissioner Hilton moved, seconded by Commissioner Holtz to recommend approval of Special Exception SPX2004-00350, National Lutheran Home to the Board of Appeals per staff recommendations. The motion passed unanimously.

REVIEW AND ACTION

Final Record Plat Revised, PLT2004-00416, King Farm Associates

The applicant is proposing to revise a previously approved record plat for the dedication of a portion of Pleasant Drive and to create two parcels in accordance with Comprehensive Planned Development Detailed Application CPD2004-002AG.

Mr. Parker announced that this application has been removed from the agenda this evening by request of the applicant and it will be rescheduled at a later date.

Final Record Plat PLT2004-00435, Timothy A. Tucker

The applicant is proposing to create two buildable lots on the corner of Johnson Drive and Frederick Avenue.

Ms. Hall presented the staff report. Ms. Hall explained that the history of Johnson Drive is unclear. She has found that Mr. Johnson originally owned the subject property (what is now Johnson Drive and the six lots located along the street) and it is not clear who currently owns Johnson Drive. The deeds for the six lots located on Johnson Drive include language granting them the ability to use the lane that later became known as Johnson Drive. At this time, there has been no evidence produced that he granted this property the same right. As such, it is not possible to grant this application as a subdivision request for a lot that fronts on Johnson Drive, as was the process for the two lots on Johnson Drive that appear on a plat of subdivision. If the property had contained access provisions, it would have been possible to create a lot that fronted on Johnson Drive with a variance from the requirement that a lot front on a public street.

Ms. Hall stated that it has been suggested that two lots are not offensive at this location, but that pipestem lots are an inappropriate subdivision alternative within the neighborhood. It is understood that resubdivision of the deep lots within the community with pipestem lots is entirely out of character for the neighborhood.

Ms. Hall pointed out that the only alternative in creating two lots is to create one with a pipestem that comes off Frederick Avenue and the other lot on the corner of Frederick Avenue and Johnson Drive.

Ms. Hall pointed out that there are two emails from Fran Hawkins and another from the President of the Lincoln Park Civic Association. They are opposed to pipestem lots. They believe they are inappropriate for their neighborhood and for the most part, staff agrees. Especially when they are applied to the very deep lots along Douglas Avenue, Frederick Avenue and North Horners Lane. Ms. Hall noted that this lot is different and so is the area surrounding it and that is why staff has recommended approval of this application.

The Commission discussed and questioned staff about pipestem lots, why Johnson Drive is not a dedicated public street, why lots cannot front on Johnson Drive, making Johnson Drive a public road, and would it set a precedent if the Commission approved this application.

Bill Orsinger with Meridian Surveys, presented the applicant's request. Mr. Orsinger discussed the other properties along Johnson Drive. Mr. Orsinger said that it is his opinion that the reason the City paves Johnson Drive is because in the City's deed, they have a right-of-way to use that road so they have the right to maintain that easement. The only property that he knows does not have a right-of-way to use Johnson Drive is this proposal, Lots 19 and 20.

In response to Commissioner Johnson, Mr. Orsinger explained that his lots cannot front on Johnson Drive because he is still in the process of trying to determine ownership of Johnson Drive. The title report was not clear on that matter and since the other parcels and lots that have legal access easements on Johnson Drive are not owned by deed. Therefore, he cannot go to the neighbors and ask them if he could use Johnson Drive, legally. He said he is still in the process of finding out who owns Johnson Drive.

Commissioner Britton stated that one possibility tonight to ensure the comfort level of the Commission is to make sure they have all the facts at hand. An option would be to put this application on hold pending retrieval of all possible information and look at different options and knocking each option to say – the only alternative to make these two parcels is to have a pipestem lot. Otherwise, with information still out there, he would be uncomfortable in approving this lot as proposed because that is the only way to do it. It may still be the more viable alternative to go with the lot that the applicant has proposed, but he does not know that until all of the information is before him. The Commissioners were in agreement with Commissioner Britton.

Commissioner Johnson stated that he is not in favor of the pipestem, therefore, he would like to defer this application and give the applicant the opportunity to establish whether this would be the only way that the property could be subdivided.

Commissioner Ostell stated that it would take a lot of convincing for her to go along with a pipestem lot given the Lincoln Park's proposed master plan.

Mr. Orsinger stated that the neighborhood, the City or his client is in favor of pipestem lots. It is out of the legal requirement that he cannot urge his client to go through the process, legally, because they do not have legal access to Johnson Drive.

Commissioner Britton stated that that is all the more reason to collect all the data so the Commission can understand and fully agree with the applicant that this is the only alternative.

Mr. Orsinger stated that he asked the Commission to defer this application until he obtains additional information.

Commissioner Hilton moved, seconded by Commissioner Holtz to consent to the applicant's application for deferment of Final Record Plat PLT2004-00435, Timothy A. Tucker. The motion passed unanimously.

Use Permit Application USE2004-00678, First Baptist Church of Rockville

The applicant is proposing to expand the existing church and to construct new parking on the subject property located at 55 Adclare Road.

Mr. Chasten presented the staff report. Mr. Chasten stated that at its November 3, 2004 meeting, the Planning Commission deferred formal action on the application for a request to construct a 13,457 square foot building addition onto the rear (west) side of the existing church along with additional on-site surface parking facilities. The new building addition will create office and storage space, a new lobby and building entrance, restrooms, shower facilities, a multi-purpose room and a catering and food preparation area. The church's existing 135-space surface parking facilities would be expanded by 81 parking spaces.

Mr. Chasten stated that the existing church's property is approximately 9.23 acres in size and located on the west side of Adclare Road. The existing church is approximately 14,105 square feet in size, two stories in height and is of masonry construction. Based on the information provided, the church's sanctuary has a seating capacity of 353 seats. Vehicular access to the site is provided by way of single entrance on Adclare Road.

Mr. Chasten stated that the building materials would be compatible with the existing church.

Mr. Chasten pointed out three issues that were raised by the Commission at its November 3, 2004 meeting: 1) the applicant's request that the Commission modify onsite afforestation requirements for the project proposal and whether the Commission has legal authority to do so; 2) staff's request that the church construct a pedestrian path from the abutting terminus of Roxboro Road Drive onto the church property in order to provide pedestrian a walkway to church, access from the street to the front entrance of the church;

and 3) applicant's ability to satisfy stormwater management requirements for the planned expansion project via use of a planned offsite stormwater management facility constructed in association with the City's pending project to construct a bike trail over the I-270/Route 28 highway interchange.

Mr. Chasten stated that the applicant has been working with staff since that deferral and the applicant has satisfied all of the conditions of approval that were of concern to the Commission.

Mr. Chasten stated that the applicant is still requesting that they not be required to construct the onsite pedestrian path from the terminus of Roxboro Road onto the site to the front entrance of the church.

In response to Commissioner Ostell, Mr. Chasten said that the community had given staff a signed petition from the people in the community reflecting their desire not to construct the pedestrian path.

Commissioner Johnson asked what would go in place of the path. Mr. Chasten replied that it would be green space.

Commissioner Ostell said she was baffled as to why the City is requiring this path when it would be more practical to put a sidewalk next to the driveway, which would benefit anybody who really did go to the church or the preschool.

Commissioner Ostell asked what would happen if the City does not build the bike bridge in the near future and is the cost of the stormwater management feasible for the church.

Edwin Woo, Civil Engineer with Department of Public Works, explained that the issue of the stormwater management is that, at present, the Recreation and Parks Department is planning to put out a bid for the stormwater management pond and the bid will be out in April 2005, and in June, the City expects that if the pond were to be retrofitted, it will provide stormwater management for this development. Mr. Woo went on to explain other options for the Church if the Recreation and Parks Department does not construct the pond.

Fletcher Honemond stated that he is standing in for William Wingate, Chairman of the Building Committee and representing First Baptist Church of Rockville, stated that it appears to him that the matter at hand really deals with the pedestrian path. He said that they are of the opinion is that this path may not serve their community or their use as a church and, therefore, they are still requesting that that not be a requirement in this particular matter. He also indicated that no one in the immediate community is a member of this church. However, the Church's relationship with the community is good in that they have free access to the property to walk their animals. Mr. Honemond stated that he would not like to go through and rehash those things that had been covered before, but to

speak to the matter concerning the path because he believes the other matters have been addressed.

Commissioner Britton went over the issues and concerns that were raised by the Commission at the November 3, 2004 meeting such as afforestation, stormwater management and the pedestrian path.

In response to the Commission, Mr. Honemond stated that the vast majority of the community drive, very few walk. He said that a pedestrian path would be very cost prohibitive. It would also affect the roots of the major trees along the driveway and they would not want to disrupt those roots.

Steve Goley with Macris, Hendricks a Glasscock, stated that a paved sidewalk would cost approximately \$6,000.

The Commission further discussed parking, and a bike lane as a compromise to a pedestrian path.

The following citizens testified:

1. Tom Howley, 709 Roxboro Road, reiterated some of the points brought up in their petition and that they, the residents, and the Church are good neighbors and they would like to keep it that way. He said he personally has no objection to the proposed construction. He does have a great objection to the perceived need for a sidewalk at the end of Roxboro Road to the Church entrance. He said his objections are based on the following observations: It is his understanding that there is but one churchgoer in the community and that family drives 150 yards to the Church. The construction of the proposed sidewalk would simply be an invitation for them to park on their street should the need arise in the future to well attended special events at the Church. Many of their homes do not have off-street parking including three of the four homes located at the end of Roxboro Road. A sidewalk in this location would set a bad precedent. In the future, he is concerned that a sidewalk may be continued up to Adclare Road and then, perhaps, down to the Bullards Park. Then, they would become very familiar with the term "front foot benefit charge." In these times of increasing property taxes, there is great concern about that. Lastly, if the sidewalk recommendation is enforced, why not have the Church install it along the existing driveway. Why was the Roxboro Road location ever suggested in the first place?

2. Dottie Cybras stated that she owns the property on the corner of Adclare Road and Roxboro Road, which is behind the Church. She said she is not happy with the idea of a pedestrian path because it would come into her back yard. She said that it would draw more people into their area who they do not know.

Commissioner Holtz moved, seconded by Commissioner Hilton to approve Use Permit Application USE2004-00678, First Baptist Church with all of the recommendation except for Condition 2d requiring a pedestrian path that would connect Roxboro with the Church. The motion passed unanimously.

COMMISSION ITEMS

Old Business

Mr. Parker explained the stormwater pond issue regarding the Archstone Development located on the corner of Veirs Mill Road and First Street. He stated that Archstone Development was approved by the Planning Commission, and as part of the approval, there is a State stormwater management pond that handles runoff from the road and is adjacent to First Street. That pond is going to be part of a land swap with the State, the owners of Archstone would take possession of the pond, and it will still treat water runoff from the street as well as some of the runoff from the Archstone project. Mr. Parker stated that the approval was for a stormwater management pond and the pond was going to taper down from the road in the Millennium Trail creating a pond and then the façade of Archstone would have a decorative retaining wall and on the top of that there is going to be a fence that would be protecting a fire lane that is adjacent to the building.

Archstone has come back with a proposal to the Department of Public Works to have a series of underground drains and not have the pond. These drains would drain into a vault system that would be built underneath of the parking structure. The amount of water treated would be the same; the difference would be that one would not see the pond; it would be a landscaped area. There would be no fence adjacent to the building and no retaining wall protecting the fire lane.

The Commission had no objections to having this matter go as an administrative approval by staff.

Mr. Parker and the Commission discussed scheduling a briefing on the Town Center traffic study. Mr. Parker stated that he would contact the Commissioners with the schedule for the briefing.

New Business

Commissioner Ostell asked for an update on what is going on with Foulger-Pratt's various applications and changes with the PDP. Mr. Parker replied that they are still working on the resolution.

Minutes

Commissioner Ostell moved, seconded by Commissioner Mullican to approve the minutes of Meeting No. 1-05 as amended. The motion passed on a vote of 5-0-1 with Commissioner Johnson abstaining.

Commissioner Mullican moved, seconded by Commissioner Hilton to approve the minutes of Meeting No. 2-05 as written. The motion passed on a vote of 4-0-2 with Commissioners Britton and Johnson abstaining.

ADJOURN

There being no further business to come before the Planning Commission, the Chair adjourned the meeting at 9:50 p.m.